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OFFICE OF PETITIONS

In re Application of
Ellis, et al.

Application No. 09/680,228

Filed: October 6, 2000

Attorney Docket No: 454313-2340.2

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: ON PETITION
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This is regarding the "Petition to Revive and Waive Rules" filed October 12, 2004.

The petition is **dismissed**.

Petitioner has requested that the Declaration and Power of Attorney filed with the petition be accepted as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution of the patent application. Petitioner makes this request because it is alleged that the signatures of some of the inventors were falsified on the originally filed declaration.

A review of the file record reveals that a "Notice to File Missing Parts of Nonprovisional Application" was mailed on November 28, 2000, requiring a properly executed oath or declaration. The notice allowed a period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A declaration was filed on December 22, 2000, and was believed to be executed by the named inventors. Petitioner later discovered that some of the signatures on the declaration were forged.

The application is currently abandoned and has been abandoned since February 18, 2004, for failure to respond to the Notice of Allowance and Issue Fee Due mailed November 17, 2003. Petitioner is advised that no action can be taken on the "Petition to Revive and Waive Rules" until the application is revived pursuant to 37 CFR 1.137(b) with the proper reply being payment of the issue fee.

Telephone inquiries regarding this matter should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions